IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2250 OF 2004

Ramaswamy Ramesh ..Petitioner.

Vs.

Air India Ltd. & Ors. ..Respondents.

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Mr. M.B. Singh for the petitioner.

Mr. S.K. Talsania i/b M.V. Kini & Co. for the Respondents.

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CORAM : DALVEER BHANDARI, C.J.&
DR.D.Y.CHANDRACHUD, J,

30h August, 2004.

P.C. :

1. The petitioner is employed as a Joint General Manager (Operations) with Air India Limited. The petitioner submitted a letter of resignation on 30th June, 2004 in which he had requested the respondents that he be relieved from service with effect from

15th August, 2004. The petitioner further requested that the balance period of notice of four and half months required as per the provisions of Air India Employees Service Regulations be waived. Regulation 73 reads as under :

"RESIGNATION :

(a) No employee shall resign from the services of the Company except by giving 30 days notice which shall not be less than 6 months in the case of licensed categories unless at the request of the employee, the notice period is waived or shorter notice period accepted in writing by the Competent Authority. If the notice period is not waived or shorter notice period not accepted the employee in such cases shall pay compensation for the shortfall in the notice period or for the entire period as the case may be. Such compensation shall be equivalent to the pay and allowances the employees would have drawn during the relevant period and this shall be deemed a liability owed to the Company for the purpose of Regulation 22(2) of the Air India Ltd. Employees PF Regulations 1954.

(b) A resignation given under (i) above may be accepted with immediate effect or at the time before the expiry of the period of notice in which case the employee shall be paid his salary in respect of notice given by him.

(c) No employee shall leave the service of the Company without proper acceptance of his resignation. During the notice period the employee

> is required to be on duty and serve the Company. The notice period will not run concurrently with leave unless specifically permitted under very exceptional circumstances by the Competent Authority.

2. According to Regulation 73 no employee shall resign from services of the company except by giving 30 days notice which shall not be less than six months in the case of licensed categories, unless the notice period is waived or shorter notice period is accepted. The learned counsel appearing for Air India Limited on instructions submitted that because of the administrative and business exigencies, it would not be possible to waive or shorter notice period. In the reply affidavit of Anupam Chatterjee, Joint General Manager – Operations, of the respondent company, it is clearly stated that Air India Limited has spent a huge amount of money on the Pilots to train these licensed Pilots to operate the various types of Aircraft. In the present situation, Air India Limited is also in the mode of adding more aircrafts to its fleet and therefore, because of the extreme exigencies of the operational work, Air India cannot afford to release these licensed category Pilots including the petitioner at their will.

3. We have heard the learned counsel for the parties. We are of the considered opinion that this is not a fit case where the writ of mandamus can be issued directing respondent No.1 - Air India Limited to waive or shorter the notice period. The petition, being devoid of any merit, is dismissed.

CHIEF JUSTICE

DR.D.Y.CHANDRACHUD, J.